

IDAHO BOARD OF COSMETOLOGY
Bureau of Occupational Licenses
700 West State Street, P.O. Box 83720
Boise, ID 83720-0063

Board Meeting Minutes of 2/13/2017

BOARD MEMBERS PRESENT: Debra J Hummel - Chair
Merrilyn Cleland
Geneal Thompson
Linda Swope
Lindy High

BUREAU STAFF: Tana Cory, Bureau Chief
Dawn Hall, Administrative Support Manager
Lori Peel, Investigative Unit Manager
Maurie Ellsworth, General Counsel
Mitchell Toryanski, Legal Counsel
Eric Nelson, Board Prosecutor
Roger Hales, Naylor and Hales
Cherie Simpson, Management Assistant
Kim Aksamit, Technical Records Specialist I
Allegra Earl, Technical Records Specialist I

OTHERS PRESENT: Niki Martin, Lou Starita, Mark Dilworth, Rick Evans,
Ryan Evans, Kristine Dye, Laurie Rowen,
Danielle Price, Diana Jensen, Stephanie Riley, Margarita
Castellanos, Ronda Clark, Vicki Ellis, Karen Judd,
Ronda Clark, LaDonn Goodfellow, Rick Fuger,
Amie Sumsion, Wendy C Florence, Cynthia Sanabria,
Kris Ellis and Kirstan Rogers-SLD GGP

The meeting was called to order at 8:30 AM MDT by Debra J Hummel.

APPROVAL OF MINUTES

Ms. Swope made a motion to approve the minutes of October 3, 2016 and November 28, 2016 as written. It was seconded by Ms. Cleland. Motion carried.

LEGISLATIVE REPORT

Ms. Cory presented the Legislative Report. She said that the Board's proposed legislation to combine the Cosmetology and Barber Boards was submitted to the Legislature and was posted to the Board's website last fall.

She also reported that on January 25th, she and Mr. Toryanski met with Representative Barbieri, Chair of the House Business Committee. He informed them that the Boards' bill was being placed in his drawer and that he was working with Legislators to draft a bill that dealt with other issues and took into consideration the concerns they have had from constituents.

Ms. Cory explained to Representative Barbieri that the Board was aware of some of these issues and was working with those Legislators and their constituents on trailer bills since the Board, as part of the Executive Branch, had to submit its Legislation prior to these issues coming to the Board.

Ms. Cory mentioned that the background information on each of these issues was provided to the Board for this meeting and the items were placed on today's agenda. Legislators were invited to attend this meeting and were asked to also invite their constituents to the meeting so that these items could be discussed.

She noted that the issues are as follows:

- 1) Representative Wintrow is working with Kirstan Rogers of General Growth Properties on kiosks in the mall selling curling irons. Since Ms. Rogers was not able to attend the July or October meeting, the Board asked Board Member Cleland to assist Mr. Rogers in putting together information for the Board to consider at today's meeting. A draft bill and e-mail from Representative Wintrow was provided to the Board. Ms. Cleland met with Rep. Wintrow and Ms. Rogers a couple of times regarding safety and sanitation. Their last meeting was after the Board's proposal was submitted to the Governor's Office. She explained to them that it was too late for this proposal to be included in the Board's bill but the Board would continue to work with them on a trailer bill.
- 2) Senator Den Hartog is working with Freelance Make-up artists who are not licensed but would like to provide services at weddings and other events. This issue came up after the Boards' bill was submitted but the Chair offered to call a meeting to work with these individuals or to work with their Legislator on a trailer bill. Senator Den Hartog did respond on February 9th to the Boards' invitation to today's meeting as follows:

Thank you for following up. I believe Chairman Barbieri had spoken with Tana about how we were planning to proceed with the legislative process. I am presenting a bill today (just for a print hearing) in the House Business Committee that reflects the changes the Board has been working on including the combination of the two boards and it addresses the issues several legislators have been working on with constituents and the Board. At this point, I don't believe it is necessary for me to be on the Board's agenda on Monday.

The bill Senator Den Hartog presented became House Bill 139.

- 3) The Board reviewed letters sent to those who responded to the postcard sent to all licensees for comment on its proposed bill and noted that the issue of lowering the hours, which is included in House Bill 139, was not brought up during the drafting of the Boards' bill but was included in a letter from the Northwest Career Colleges Federation dated November 7th to which the Board responded. The Board responded to the Federation stating its belief that all schools need to be involved in the discussion. It also informed Northwest Career Colleges Federation that the hours issue would be placed on the Board's February 13th agenda. The Board also noted a follow up letter that it received from the Northwest Career Colleges Federation on December 28th stating that all schools would be invited to a meeting on this issue scheduled for January 9th.
- 4) Finally, it was noted that there was also an issue with National Accrediting Commission of Cosmetology Arts & Sciences (NACCAS) and the expiration of licenses. The Board was as helpful as it could be to the school. It sent a letter to NACCAS about the school but the Board could not go beyond the law and state that the license had never expired.

Ms. Cory then explained that House Bill 139 was not the Boards' bill and the Boards were not the sponsors so the items placed on the agenda for discussion of trailer bills was no longer necessary.

Mr. Hales then provided a comparison of the bill submitted by the Boards' and House Bill 139.

House Bill 139:

54-5802(17) – adds a new definition for event styling which provides “Event styling means applying facial cosmetic products to customers, arranging customers’ hair or using thermal styling equipment on customers’ hair in preparation for events including, but not limited to, weddings, dances, parties and recitals.”

54-5802(29) – adds a new definition for thermal styling equipment which provides “Thermal styling equipment means curling irons, curling wands, flat irons, heated hair rollers, handheld blowdryers or other devices using heat to style hair.”

54-5805(8) – provides an exemption for “persons whose practice for compensation is limited to event styling.”

54-5805(9) – provides an exemption for “employees or owners of businesses that offer thermal styling equipment for sale at retail who demonstrate use of thermal styling equipment on customers’ hair in connections with the sale or attempted sale of the product, without compensation from the customer other than the price of the product.”

54-5810(2) (b) & (c) – lowers the Barber Styling & Cosmetology education hours to 1600 hours for licensure.

54-5810(8) – allows a certain amount of cosmetology education to qualify towards a barber or barber stylist license.

54-5812(2) – substitutes the new defined term “thermal styling equipment” in place of “thermal curling devices such as curling irons, crimpers or heated rollers”.

54-5813 – removes the 24 day limitation for registered practice outside a licensed establishment.

54-5813(3) – adds an exemption from registration for practice outside a licensed establishment for licensees performing event styling.

54-5820 – adds a provision to allow the Board to backdate a license if reinstated within 90 days of expiration.

Ms. Thompson asked what does “not the Boards’ bill” mean? Mr. Hales said it means that the Boards are not the sponsor of the bill. Since the Boards are not the sponsor, comments on the bill should be directed to the legislators sponsoring the bill. A member of the audience asked if the bill could be pulled. Ms. Cory explained that the Board cannot pull the bill because it is not the Board’s bill. Any comments on the bill need to be directed to the sponsors or to their own legislator. Ms. Cleland commented on the proposed law, House Bill 139, by asking where was the due diligence that the Board follows when it goes through rule making or drafting bills and why did the sponsor not request comments from the public or from the Boards whose charge is public protection.

The Board members agreed that keeping the concept of combining the Boards was good. The Board then took comments from the audience. Ms. V. Ellis commented that the proposal was very fragmented and she was concerned about lowering the hours and unlicensed practice as these are not good for the profession. Mr. R. Evans stated that he met with nine school representatives the evening before and no one could come up with a reason to lower the hours. He had gotten information from Utah schools when they recently lowered their hours and they had to cut a big chunk of the curriculum and now they pretty much teach to the test. Ms. Thompson commented that one person has the power to work with a legislator and change a law that will accommodate their situation. By doing this, it opens a pandora’s box and only time will tell what the effect will be. Mr. Evans also had a concern with the “grace period” and what effect it will have. It was stated that those with concerns need to be directed to the bill sponsors or to their own legislators.

FINANCIAL REPORT

Ms. Hall gave the financial report, which indicated that the Board has a cash balance of \$1,143,663.43 as of 01/31/2017.

DISCIPLINE

MEMORANDUM

Mr. Nelson, presented a memorandum regarding case numbers COS-2017-81, COS-2017-83, COS-2017-82, COS-2017-144, COS-2017-22, COS-2017-105, COS-2017-92 and COS-2017-147 the Board made its recommendations to its prosecuting attorney.

CONSENT ORDERS

Mr. Nelson, presented several Stipulation and Consent Orders on cases COS-2016-142, COS-2017-30, COS-2017-34, COS-2017-35, and COS-2017-44. Ms. Cleland made a motion to accept the Stipulation and Consent Orders as signed and to authorize Ms. Hummel to sign on behalf of the Board. It was seconded by Ms. Swope. Motion carried.

INVESTIGATIVE REPORT

Ms. Peel presented the investigative report, which is linked above.

FOR BOARD DETERMINATION

Ms. Swope made a motion to approve the Bureau's recommendation and to authorize closure in the following cases with a warning letter I-COS-2016-218, I-COS-2017-26; I-COS-2017-31; I-COS-2017-48 and I-COS-2017-49; I-COS-2017-50 and I-2017-51; I-COS-2017-62; I-COS-2017-67; I-COS-2017-70; I-COS-2017-83; I-COS-2017-92; COS-2017-120 and I-COS-2017-121; I-COS-2017-129; I-COS-2017 and I-COS-2017-137. It was seconded by Ms. Cleland. Motion carried.

Ms. Swope made a motion to approve the Bureau's recommendation and to authorize closure in cases I-COS-2016-217; I-COS-2016-257; I-COS-2017-13 and I-COS-2017-14. It was seconded by Ms. Cleland. Motion carried.

DISCIPLINARY ACTION

Ms. Peel, presented several Stipulation and Consent Orders on cases COS-2017-59/60, COS-2017-63/64, COS-2017-65, COS-66, COS-2017-68/69, COS-2017-70/71, COS-2017-74/75, COS-2017-76/77, COS-2017-78/79, COS-2017-84/85, COS-2017-88/89, COS-2017-90/91, COS-2017-96, COS-2017-97, COS-2017-99/100, COS-2017-103/104, COS-2017-113/114, COS-2017-115/116, COS-2017-117/118, COS-2017-1, COS-2017-122, COS-2017-/123/124, COS-2017-125/126, COS-2017-127, COS-2017-128, COS-2017-130, COS-2017-131/132, COS-2017-134, COS-2017-145/146 and COS-2017-148/149. Ms. Thompson made a motion to accept the Settlement Orders as signed and to authorize Ms. Hummel to sign on behalf of the Board. It was seconded by Ms. Swope. Motion carried.

MEMORANDUM

Ms. Peel, presented a memorandum regarding case numbers COS-2017-50, COS-2017-61 and COS-2017-62, COS-2017-101 and COS-2017-102, COS-2017-135 and COS-2017-136, COS-2017-140 and COS-2017-141, COS-2017-150. The Board made its recommendations.

OLD BUSINESS

To Do List – The Board reviewed the to do list and no action was taken.

NEW BUSINESS

New business, item 3, thermal styling products was on today's agenda and a trailer bill had been drafted and provided by Rep. Wintrow for Board discussion at today's meeting. Rep. Wintrow has been assisting Ms. Rogers from General Growth Properties (GGP) on this issue. Ms. Rogers was not able to attend the Board's August or October meetings but has been working with Ms. Cleland on background information for the Board that was to be reviewed along with the draft legislation.

As discussed earlier, these items no longer need to be addressed in today's meeting, but since Ms. Rogers arrived after the earlier discussion, the Board asked her if she would like to discuss the issue.

Ms. Rogers addressed the Board and stated that GGP has 120 properties in the U.S. and she works with Mom and Pop retailers. One offers demonstrations of curling irons and they have been cited by local code officers since they do not have a cosmetology license. She has been working with Rep. Wintrow and Ms. Cleland on this issue. Ms. Cleland has been saying the main concern is sanitation. Ms. Rogers thinks they have come up with some good verbiage.

The verbiage Ms. Rogers is referring to is the draft bill Rep. Wintrow sent on Dec. 23rd and is the trailer bill mentioned earlier. The new bill, HB 139, provides an exemption for demonstrating thermal styling equipment in connection with the sale of such products.

Ms. Rogers stated that Rep. Wintrow had updated her this morning but that out of the respect to the Board, she wanted to be here. Ms. Cory thanked Ms. Rogers for providing the information on surrounding states. Ms. Rogers stated it was a good process and she learned a lot. The Board and Ms. Rogers then discussed in more detail how kiosks operate.

NEXT MEETING

Next meeting is for June 5, 2017 at 8:30 AM MST at the Bureau of Occupational Licenses 700 West State Street Boise, Idaho 83702.

DL ROOPE EXAM CONTENT

The Board received information from DL Roope Administrations regarding updated instructor practical and written examination and to allow the new content to start July 1, 2017.

Ms. Cleland made a motion to approve the updated updated Instructor practical and written examination and to begin administering it on July 1, 2017. It was seconded by Ms. Swope. Motion carried.

DL ROOPE CONTRACT

Ms. Cleland made a motion to accept the DL Roope Administrations, Inc. Testing contract for FY2018 and authorize Ms. Cory to sign on behalf of the Board. It was seconded by Ms. Swope. Motion carried.

EXECUTIVE SESSION

Ms. Cleland made a motion to go into executive session per Idaho Code 74-206 (1) (d), to consider records that are exempt from disclosure under the Idaho Public Records Law. The purpose of the executive session was to discuss licensure applications. It was seconded by Ms. Thompson. Motion carried. The vote was: Ms. Hummel, aye; Ms. Cleland, aye; Ms. Thompson, aye; and Ms. High, aye.

Ms. Thompson made a motion to come out of executive session. It was seconded by Ms. Cleland. Motion carried. The vote was: Ms. Thompson, aye; Ms. Hummel, aye; Ms. Cleland, aye; and Ms. High, aye.

APPLICATIONS FOR LICENSE

Ms. Cleland made a motion to accept the applications for Ashley O'Leary, Terri Sanders and Tawnie Orosco and issue licenses. It was seconded by Ms. High. Motion carried.

Ms. Thompson made a motion to have Jamie Brummer and Sheree Van Leuven take the full examination and issue licenses once the examination has been successfully passed. It was seconded by Ms. Cleland. Motion carried.

Ms. Thompson made a motion to have Amy Truc Vo take the full examination and issue a license once the examination has been successfully passed. It was seconded by Ms. High. Motion carried.

Ms. Cleland made a motion to accept the application for Nicole Torrens issue a license and send a letter explaining the scope of practice for a haircutter. It was seconded by Ms. Thompson. Motion carried.

APPRENTICESHIPS

Ms. Cleland made a motion to table the apprenticeship application for applicant 901148724, 901149813 and 901149852 pending documentation on student instructor ratio. It was seconded by Ms. Thompson. Motion carried.

Ms. Cleland made a motion to deny the application for Minh N Do based on disciplinary action against the salon. It was seconded by Ms. Thompson. Motion carried.

Ms. Cleland made a motion to accept the apprenticeship applications for Cuong Vi Nguyen and Jacquelyn Peterson. It was seconded by Ms. High. Motion carried.

NEW SCHOOL

Ms. Cleland made a motion to accept the application for The Beauty Institute Schwazkopf Professional. It was seconded by Ms. Thompson. Motion carried.

ADJOURNMENT

Ms. Thompson made a motion to adjourn the meeting at 12:03 PM MST. It was seconded by Ms. Cleland. Motion carried.

Debra J Hummel, Chair

Merrilyn Cleland

Geneal Thompson

Linda Swope

Lindy High

Tana Cory, Bureau Chief